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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,030	01/22/2002	Stephen E. Terry	I-2-135.3US	3271

24374 7590 03/16/2004

VOLPE AND KOENIG, P.C.  
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UNITED PLAZA, SUITE 1600  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103

EXAMINER

MILLS, DONALD L

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/054,030

Applicant(s)

TERRY, STEPHEN E.

Examiner

Donald L Mills

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2,3</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

Page 2, line 5, "58" should be corrected to "58, as shown in **Figure 3**".

Page 2, line 14, "H-ARQ signaling" should be corrected to "H-ARQ control signaling".

Appropriate correction is required.

### *Information Disclosure Statement*

2. The information disclosure statements filed June 26, 2002 and September 29, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the

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specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 2, the claim specifies *varying capacity of each data source queue decreases as the multiuser channel availability increases* (See claim 2, lines 1-2.) However, the specification describes, “as the availability of the channel increases, the size of the windows increases which increases” (See page 6, lines 14-15.) The specification describes a directly proportional relationship between the multiuser channel availability and the capacity of each data source queue, not an inversely proportional relationship. For the purpose of this examination, the examiner will interpret this claim as being consistent with the specification and having a directly proportional relationship between the multiuser channel and data source queue.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe et al. (US 6,285,662 B1), hereinafter referred to as Watanabe.

Regarding claim 1, Watanabe discloses a method for selecting a size of a contention window, which comprises:

*A queue associated with the multiuser channel having an input configured to receive incoming packet data from a plurality of data source queues, the multiuser channel queue outputting the received packet data for transmission over the multiuser channel* (Referring to Figure 1, access point 14, inherently comprises a buffer for receiving and transmitting data to and from mobile terminals 12, receives data from the random access channel, which is accessible from any of mobile terminals 12. See column 6, lines 58-62 and column 7, lines 1-4.)

*The plurality of data source queues, each data source queue uniquely associated with each data source and having an input configured to receive data from that queue's data source, each data source queue capable of varying its capacity* (Referring to Figure 1, contention windows, associated with each mobile terminal, is of size to include a selected number of time slots forming random access channels, or entire frames. The selector 46 selects the contention window size. See column 7, lines 64-67 and column 8, lines 20-25.)

*Wherein the varying capacity of each data source queue changes based on in part an availability of the multiuser channel queue* (Referring to Figure 1, the access point 14 broadcasts an indication of the number of time slots allocated to form random access channels within a particular frame, which is read by the contention window selector 46 to select the size of the contention window. See column 8, lines 8-13 and 17-25.)

Regarding claim 2, Watanabe discloses *wherein varying the capacity of each data source queue decreases as the multiuser channel availability decreases and increases as the multiuser channel availability increases* (Referring to Figure 1, the access point 14 broadcasts an indication of the number of time slots allocated to form random access channels within a particular frame, which is read by the contention window selector 46 to select the size of the

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contention window, inherently a directly proportional relationship. See column 8, lines 8-13 and 17-25.)

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Mills whose telephone number is 703-305-7869. The examiner can normally be reached on 8:00 AM to 4:30 PM.

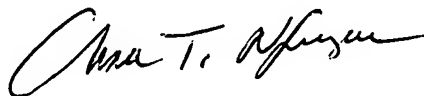
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Donald L Mills

*DLM*

February 29, 2004



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